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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,281	07/18/2003	Patrick L. Watson	EKIN:1001RCE	2401
34725 7590 CHALKER FLORES, LLP 2711 LBJ FRWY Suite 1036 DALLAS, TX 75234			EXAMINER CHAU, MINH H	
			ART UNIT 2854	PAPER NUMBER
			MAIL DATE 05/29/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/623,281

**Applicant(s)**

WATSON ET AL.

**Examiner**

Minh H. Chau

**Art Unit**

2854

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39, 41, 42 and 44-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-39, 41, 42 and 44-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 37 is objected to because of the following informalities: The scented gel carrier was applying to a fabric substrate (as recited in line 4); hence, how does it bond to the article (as recited in line 12). This objection can be over come by replacing, for example: the word "article" with -- fabric substrate --. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 37-39, 41, 42, and 44-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mullen** (US Pat. # 6,749,861) in view of **Gunderman et al.** (US # 5,690,130) and **Moreland** (US pat. 6,621,347).

With respect to **Independent claim 37**, **Mullen** teaches a method of applying a scent to a fabric article (col. 5, lines 35-36), comprising the steps of applying a fragrance carrier or scented gel carrier at a thickness of between about 5 and about 800 microns (col. 3, lines 30-31) to a fabric substrate (Col. 1, lines 40-43 and 56-62), the fragrance carrier or the scented gel carrier comprises one or more scents dispersed in or about a gel polymer matrix at a ratio of about 100 parts gel polymer matrix to about 2 to about

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40 parts one or more scents (col. 3, lines 32-41) wherein the gel polymer matrix comprising a plastisol-type composition and an adhesive or a tackifier (Col. 1, lines 40-52 and Col. 3, lines 16-29); and curing the scented gel carrier at a temperature that is at about or less than the flashpoint of the scent to bond the scent gel carrier to the article (Col. 1, lines 56+ and Col. 3, lines 16-29) such that the cleaning one or more washes with a mild detergent of the article will not remove the scented gel carrier from the fabric substrate

**Mullen** teaches all the limitation as explained in the rejection above, except for the recitation of *"the scented gel carrier is applied to the substrate by screen printing"*, *"a plastisol type composition selected from the group of phthalic acid ester, alkyl sulfonic acid ester of phenol"* and *"a temperature of between about 140 and about 275 degrees Fahrenheit"*

**Gunderman et al.** teach a method of method of applying a cosmetic or a fragrance to a substrate or an article comprising the step of applying the fragrance carrier or the scented gel carrier to the substrate by screen printing (Col. 6, lines 45+).

In view of this teaching, it would have been obvious to one of skill in the art to modify the method of Mullen to include the method step of applying the fragrance carrier or the scented gel carrier to the substrate by screen printing as taught by **Gunderman et al.** to allow the thickness or the amount of the scented gel carrier applying to the substrate can be carry properly and uniformly.

**Moreland** teach a method of printing a scented ink to a substrate comprising a plasticizers or plastisol type composition include phthalic acid ester (col. 5, lines 41-47).

In view of this teaching, it would have been obvious to one of skill in the art to modify the plastisol type of **Mullen** with a plastisol-type that include a phthalic acid ester as taught by **Moreland** for the purpose of enhancing the curing process.

With regarding to the recitation of "curing the scented gel carrier at a *temperature of between about 140 and about 275 degrees Fahrenheit*". The selection of the temperature at a certain range for the curing process to bond the scented gel carrier to a substrate is depending on the type of scent used. Since, each of the scent selected have different flashpoint.

With respect to **claim 38**, see col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the step of applying a coating to the paper substrate.

With respect to **claim 39**, see col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the step of adding or applying a coating or a protective coating to the fragrance carrier or scented gel carrier.

With respect to **claim 41**, see col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the step of applying the fragrance carrier or the scented gel carrier to a surface of a substrate; the fragrance carrier comprising a scent. It is noted that the fragrances or scent is not generally visible during the use of the article.

With respect to **claim 42**, see Col. 3, lines 63-65 and Col. 4, lines 16-18 of **Mullen** that teach the fragrance carrier or the scented gel carrier is transparent or clear coating, which is clear or colorless.

With respect to **claim 44**, as explained in the rejection to claim 37 above, it is clear to one of skill in the art that an article of manufacture can be made in accordance with the method steps of claim 37.

With respect to **claim 45**, see Col. 1, lines 19-26 and Col. 3, line 30 through Col. 4, line 19 of **Mullen** that teach the use of the thickness or a thickener or a catalyst that reduce the transfer into porous substrates and to increase the strength of the scented gel carrier upon curing.

With respect to **claim 46**, see Col. 3, lines 32-41 of **Mullen** that teach the fragrance carrier or scented gel carrier includes a ratio of about 100 parts polymer matrix to about 2 to about 40 parts one or more scents.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 37-39, 41, 42 and 44-46 have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh H. Chau whose telephone number is (571) 272-2156. The examiner can normally be reached on MON - FRI 11:00AM - 7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JUDY NGUYEN can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Minh H Chau/  
Primary Examiner  
Art Unit 2854

MHC  
May 27, 2008